

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
1998 Biennial Regulatory Review --	)	IB Docket No. 98-118
Review of International Common Carrier	)	
Regulations	)	
_____	)	

COMMENTS OF AMERITECH

Ameritech respectfully submits these comments on the issues raised in the Commission's Notice of Proposed Rulemaking ("Notice") in the above-captioned docket.<sup>1</sup>

In the Notice, the Commission proposes a number of steps that would significantly streamline the section 214 international service authorization process and simplify the rules applicable to international carriers as part of its 1998 biennial regulatory review. This review is aimed at eliminating or modifying regulations that are "no longer necessary in the public interest,"<sup>2</sup> as required by the Telecommunications Act of 1996 ("1996 Act"). Consistent with the requirements of the 1996 Act, the Commission proposes to: (1) grant a blanket section 214 authorization for the provision of international telecommunications services by any non-dominant carrier on unaffiliated

<sup>1</sup> *In the Matter of 1998 Biennial Review -- Review of International Common Carrier Regulations*, IB Docket No. 98-118, Notice of Proposed Rulemaking, FCC 98-149 (rel. July 14, 1998).

<sup>2</sup> 47 U.S.C. § 161 (directing the Commission to undertake, in every even numbered year beginning in 1998, a review of all regulations issued under the Communications Act that apply to operations or activities of any provider of telecommunications service, and to "repeal or modify any regulation it determines to be no longer necessary in the public interest").

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routes; (2) eliminate the requirement for prior approval of *pro forma* assignments and transfers of control of international section 214 authorizations; (3) allow any carrier with global section 214 authorization to use any non-U.S.-licensed submarine cable system without specific approval, and clarify the exclusion list for international section 214 authorizations; (4) eliminate the need to apply for a separate section 214 authorization when applying for a common carrier cable landing license; (5) reorganize and simplify the rules on contents of international section 214 applications and list the obligations of each category of carrier in a separate rule section; (6) authorize the provision of switched services over private lines by declaratory ruling instead of requiring a section 214 application; and (7) eliminate the requirement that applicants inform the Commission of every 10 percent or greater shareholder, and require only that applicants provide a list of every greater than 25 percent shareholder.

Ameritech strongly supports the Commission's proposed modifications to its international common carrier regulations. These changes will eliminate many regulatory burdens that are no longer necessary due to increased competition in the international services market. In addition, they will significantly enhance competition among providers of international services by permitting carriers to make rapid and efficient responses to changing market conditions. The Commission, therefore, should adopt the rule changes proposed in the Notice. Ameritech offers the following specific comments on some of the Commission's proposals.

**1. The Commission Should Adopt a Blanket Authorization for International Service Along Unaffiliated Routes.**

In the Notice, the Commission proposes to grant a blanket section 214 authorization for the provision of international telecommunications services on

unaffiliated routes.<sup>3</sup> Specifically, the Commission proposes to grant a blanket authorization that would certify that “it would serve the public interest, convenience and necessity to allow any entity that would be a non-dominant carrier to provide facilities-based service, or to resell the international services of other carriers, to any international point except a market in which an affiliated carrier operates.”<sup>4</sup>

Ameritech supports the Commission’s proposal to adopt a blanket authorization for the provision by non-dominant international common carriers of international telecommunications services along unaffiliated routes. Implementation of this proposal would enhance competition in the provision of international telecommunications services by eliminating unnecessary regulatory burdens and delay, establish conditions that more closely resemble an unregulated market, and reduce significantly administrative burdens on the Commission.

Even under existing streamlined procedures, requiring carriers to file formal, written section 214 applications to provide international services impedes vigorous competition in the market for such services by: (1) imposing significant regulatory delays on carriers seeking to offer new services, thereby limiting their ability to make rapid and efficient responses to changing market conditions;<sup>5</sup> (2) imposing significant costs on carriers attempting to initiate new service offerings; and (3) permitting existing international services providers to interpose frivolous oppositions to such applications to

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<sup>3</sup> Notice, FCC 98-149 at para. 8.

<sup>4</sup> *Id.* at para. 8.

<sup>5</sup> Under the Commission’s streamlined procedures, an international carrier must file a detailed, formal written application for authorization to provide international service, and wait at least 36 days from the date such application is placed on public notice before commencing operations if the application is not opposed. If the application is opposed, the carrier may not commence operations until it receives formal approval from the Commission, which may involve considerable delay.

delay the introduction of new, competitive services. Adopting the Commission's proposal would, therefore, enhance the competitiveness of U.S. international carriers by permitting them to respond quickly to changes in the market.

Adopting a blanket authorization would not in any way threaten existing or potential competition in the international services market. As the Commission observed in the Notice, virtually none of the international section 214 applications filed under the Commission's current streamlined procedures have been opposed,<sup>6</sup> suggesting that even the Commission's existing streamlined international section 214 procedures are unnecessary. Moreover, under a blanket authorization, international carriers would still be subject to all of the Commission's rules and policies governing international services, and the Commission could suspend or revoke such authority to deter or penalize any violations of those rules and policies.<sup>7</sup> Consequently, under the Commission's proposal, the Commission's regulatory safeguards would be sufficient to ensure that U.S. international carriers comply with Commission policies and rules, and to prevent anticompetitive conduct. Moreover, the Commission would always retain authority to reimpose formal application procedures should the blanket authorization process prove inadequate.

Eliminating the formal section 214 application process for non-dominant carriers seeking to provide international services on unaffiliated routes would, moreover, significantly reduce administrative costs and burdens on the Commission, which must

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<sup>6</sup> *Id.* at para. 7 (noting that, generally, the oppositions to international section 214 applications that the Commission has received have involved concerns about a carrier's affiliations).

<sup>7</sup> Ameritech, therefore, agrees with the Commission's tentative conclusions that a blanket section 214 authorization would be a better approach than forbearing from requiring international section 214 authorizations, and that it should maintain a requirement that carriers notify the Commission that they are providing international service pursuant to the blanket authorization.

process international section 214 applications. In light of increasing competition in international services markets, Commission safeguards, and the Commission's ability to reimpose formal application procedures if the blanket authorization process proves inadequate, Ameritech believes that the public interest would be better served by eliminating the formal international section 214 application process, and permitting the Commission to devote its resources to its enforcement duties.

Ameritech believes that the Commission's tentative conclusions apply equally to commercial mobile radio services ("CMRS") licensees, and that there is no basis for treating CMRS licensees differently from wireline common carriers. Accordingly, the Commission should include CMRS licensees in any blanket international section 214 authorization that it adopts. Moreover, because Ameritech believes that the Commission's regulations should be technology-neutral, it rejects the notion that the Commission should apply regulatory forbearance from formal international section 214 application requirements only to CMRS providers, but not to wireline carriers.

Because there are, as the Commission recognizes, "few if any grounds that would warrant denial or conditioning of an authorization to serve a route where the applicant is not affiliated with a carrier operating in the destination market,"<sup>8</sup> the Commission should adopt its proposal, and grant a blanket section 214 authorization for international service on unaffiliated routes.

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<sup>8</sup> *Id.* at para. 7. Under the Commission's proposal, carriers would be required to notify the Commission within 30 days of commencing operations that they are providing service pursuant to the blanket authorization. *Id.* at para. 10.

**2. The Commission Should Forbear From Requiring Prior Approval of *Pro Forma* Assignments and Transfers of Control of International Section 214 Authorizations.**

Ameritech also supports the Commission's proposal to forbear from requiring carriers to obtain prior approval of *pro forma* assignments and transfers of control of international section 214 authorizations.<sup>9</sup> Section 10 of the Communications Act provides that the Commission must forbear from applying any provision of the Act to a telecommunications carrier if it finds that three public interest criteria are satisfied.<sup>10</sup> Plainly, those criteria are met in this instance.

First, prior review of *pro forma* transfers or assignments is clearly unnecessary to ensure that carriers' rates, terms and conditions for international services are just and reasonable, and not unjustly or unreasonably discriminatory, as demonstrated by the fact that the Commission routinely grants such applications "by a rubber stamp."<sup>11</sup> As the Commission rightly observes, *pro forma* transactions do not affect a carrier's rates, terms and conditions for service because such transactions do not affect actual control of the carrier. The Commission also retains ample authority, for example under section 208 of the Act, to ensure that a carrier's rates, terms and conditions for service are consistent with the Act and Commission rules. Accordingly, the first statutory forbearance criterion is met. Moreover, and for the same reasons, the second criterion (that prior approval of

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<sup>9</sup> Ameritech also supports the Commission's proposed definition of *pro forma*. See Notice, FCC 98-149 at para. 14.

<sup>10</sup> Those criteria are that: (1) enforcement is not necessary to ensure that charges, practices, classifications or regulations are just and reasonable, and not unjustly or unreasonably discriminatory; (2) enforcement is not necessary to protect consumers; and (3) forbearance is consistent with the public interest. 47 U.S.C. § 160.

<sup>11</sup> Notice, FCC 98-149 at para. 12.

*pro forma* transfers is not necessary to protect consumers) is also satisfied. Finally, forbearance from requiring prior approval of *pro forma* transfers and assignments of international section 214 authorizations is consistent with the public interest. As the Commission correctly observes, eliminating the requirement for prior approval would promote competitive market conditions by allowing carriers quickly to change their ownership structure or internal organization in response to business needs. The Commission therefore should forbear from requiring carriers to obtain prior approval for *pro forma* transfers or assignments of international section 214 applications.

Ameritech agrees with the Commission that it should require carriers that undertake a *pro forma* assignment of an international section 214 authorization to notify the Commission within 30 days after consummation of the transaction.<sup>12</sup> This requirement, which is necessary to maintain complete and accurate Commission records, would not be unduly burdensome on carriers. Such a requirement would not, however, be necessary for *pro forma* transfers of control because such transactions do not affect the identity of the entity holding the section 214 authorization or the ultimate control of that entity.

**3. The Commission Should Remove All Non-U.S.-Licensed Cable Systems from the Exclusion List and Allow Any Facilities-Based Carrier to Use Any Foreign Cable System in its Provision of U.S. International Service.**

Ameritech supports the Commission's proposal to allow any carrier with a section 214 authorization for global facilities-based service to use non-U.S.-licensed submarine

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<sup>12</sup> Notice, FCC 98-149 at para. 19. Ameritech also concurs that it is not necessary to place such notification letters on public notice because they would raise no substantial public interest issue.

cable systems without specific Commission approval.<sup>13</sup> The Commission is correct that the international services market is growing increasingly competitive, with more facilities-based carriers operating throughout the world. Consequently, U.S. international carriers must be able to establish more efficient and cost-effective routing for U.S. traffic if they are to compete effectively in global telecommunications markets. The Commission's proposal is, therefore, an appropriate response to market developments, and should be adopted.

### **Conclusion**

Ameritech strongly supports the modifications to the Commission's international common carrier regulations proposed in the Notice. These changes will significantly streamline the international section 214 authorization process and simplify the rules applicable to international carriers by eliminating many regulatory requirements that are no longer necessary because of increasing competition in international service markets.

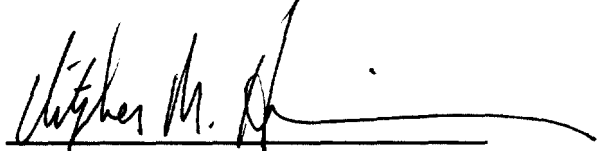
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<sup>13</sup> Global section 214 authorizations for facilities-based service are subject to the Commission's exclusion list, which sets forth those countries and facilities for which a facilities-based carrier must obtain specific section 214 authorization. *Notice*, FCC 98-149 at 23. Currently, the exclusion list includes all non-U.S.-licensed submarine cable systems except those which are explicitly listed. *Id.* at 24. The list, therefore, establishes a presumption against the use of non-U.S.-licensed facilities. Under the Commission's proposal, this presumption would be reversed and would favor permitting the use of all non-U.S.-licensed facilities except those specifically identified.



Accordingly, the Commission should adopt the rule changes proposed in the Notice.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Christopher M. Heimann", is written over a horizontal line.

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